

107TH CONGRESS
2D SESSION

S. 351

AN ACT

To amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting the use of mercury fever thermometers and improving the collection and proper management of mercury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mercury Reduction Act
5 of 2002”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) mercury is a persistent and toxic pollutant
4 that bioaccumulates in the environment;

5 (2) according to recent studies, mercury deposi-
6 tion is a significant public health threat in many
7 States throughout the United States;

8 (3) 40 States have issued fish advisories that
9 warn certain individuals to restrict or avoid con-
10 suming mercury-contaminated fish from affected
11 bodies of water;

12 (4) according to a report by the National Acad-
13 emy of Sciences, over 60,000 children are born each
14 year in the United States at risk for adverse
15 neurodevelopmental effects due to exposure to meth-
16 yl mercury in utero;

17 (5) studies have documented that exposure to
18 elevated levels of mercury in the environment results
19 in serious harm to species of wildlife that consume
20 fish;

21 (6) according to the Mercury Study Report,
22 prepared by the Environmental Protection Agency
23 and submitted to Congress in 1997, mercury fever
24 thermometers contribute approximately 17 tons of
25 mercury to solid waste each year;

1 (7) the Governors of the New England States
 2 have endorsed a regional goal of “the virtual elimi-
 3 nation of the discharge of anthropogenic mercury
 4 into the environment”;

5 (8) mercury fever thermometers are easily bro-
 6 ken, creating a potential risk of dangerous exposure
 7 to mercury vapor in indoor air and risking mercury
 8 contamination of the environment; and

9 (9) according to the Environmental Protection
 10 Agency, the quantity of mercury in 1 mercury fever
 11 thermometer, approximately 1 gram, is enough to
 12 contaminate all fish in a lake with a surface area of
 13 20 acres.

14 **SEC. 3. MERCURY.**

15 (a) IN GENERAL.—Subtitle C of the Solid Waste Dis-
 16 posal Act (42 U.S.C. 6921 et seq.) is amended by adding
 17 at the end the following:

18 **“SEC. 3024. MERCURY.**

19 “(a) PROHIBITION ON SALE OF MERCURY FEVER
 20 THERMOMETERS EXCEPT BY PRESCRIPTION.—Effective
 21 beginning 180 days after the date of enactment of this
 22 section—

23 “(1) a person shall not sell or supply mercury
 24 fever thermometers to consumers, except by pre-
 25 scription; and

1 “(2) with each mercury fever thermometer sold
2 or supplied by prescription, the manufacturer of the
3 thermometer shall provide clear instructions on—

4 “(A) careful handling of the thermometer
5 to avoid breakage; and

6 “(B) proper cleanup of the thermometer
7 and its contents in the event of breakage.

8 “(b) THERMOMETER EXCHANGE PROGRAM.—The
9 Administrator shall make grants to States, municipalities,
10 nonprofit organizations, or other suitable entities for im-
11 plementation of a national program for the collection of
12 liquid mercury fever thermometers from households and
13 their exchange for thermometers that do not contain mer-
14 cury.

15 “(c) MANAGEMENT OF COLLECTED MERCURY.—

16 “(1) TASK FORCE.—

17 “(A) ESTABLISHMENT.—There is estab-
18 lished an advisory committee to be known as
19 the ‘Task Force on Mercury’ (referred to in this
20 section as the ‘Task Force’).

21 “(B) MEMBERSHIP.—The Task Force
22 shall be composed of 5 members, of whom—

23 “(i) 1 member shall be the Adminis-
24 trator, who shall serve as Chairperson of
25 the Task Force;

1 “(ii) 1 member shall be the Secretary
2 of State;

3 “(iii) 1 member shall be the Secretary
4 of Defense;

5 “(iv) 1 member shall be the Secretary
6 of Energy; and

7 “(v) 1 member shall be the Director
8 of the National Institute of Environmental
9 Health Sciences of the Department of
10 Health and Human Services.

11 “(C) DATE OF APPOINTMENTS.—The ap-
12 pointment of a member of the Task Force shall
13 be made not later than 30 days after the date
14 of enactment of this section.

15 “(D) TERM; VACANCIES.—

16 “(i) TERM.—A member shall be ap-
17 pointed for the life of the Task Force.

18 “(ii) VACANCIES.—A vacancy on the
19 Task Force—

20 “(I) shall not affect the powers of
21 the Task Force; and

22 “(II) shall be filled in the same
23 manner as the original appointment
24 was made.

25 “(E) MEETINGS.—

1 “(i) INITIAL MEETING.—Not later
2 than 30 days after the date on which all
3 members of the Task Force have been ap-
4 pointed, the Task Force shall hold the ini-
5 tial meeting of the Task Force.

6 “(ii) CALLING OF MEETINGS.—The
7 Task Force shall meet at the call of the
8 Chairperson.

9 “(iii) QUORUM.—A majority of the
10 members of the Task Force shall con-
11 stitute a quorum, but a lesser number of
12 members may hold hearings.

13 “(F) DUTIES.—

14 “(i) IN GENERAL.—Not later than 1
15 year after the date of the initial meeting of
16 the Task Force, the Task Force shall sub-
17 mit to Congress a report containing rec-
18 ommendations and suggested actions
19 concerning—

20 “(I) the long-term management
21 of surplus mercury collected from—

22 “(aa) mercury fever ther-
23 mometers;

24 “(bb) other medical and
25 commercial sources;

1 “(cc) government sources,
 2 including mercury stored by the
 3 Department of Defense and the
 4 Department of Energy; and

5 “(dd) industrial or other
 6 sources in the United States;

7 “(II) programs to test the long-
 8 term durability of promising tech-
 9 nologies for sequestration of mercury;

10 “(III) storage of mercury col-
 11 lected or sequestered under subclause
 12 (I) or (II), in a manner that ensures
 13 that there is no release of the mercury
 14 into the environment;

15 “(IV) reduction of the total
 16 threat posed by mercury to humans
 17 and the environment; and

18 “(V) reduction of the total quan-
 19 tity of mercury produced, used, and
 20 released on a global basis, including
 21 whether and how—

22 “(aa) the quantity of virgin
 23 mercury mined from the ground
 24 and placed in circulation each
 25 year can be reduced through bi-

1 lateral or international agree-
 2 ments or other means;

3 “(bb) the quantity of mer-
 4 cury intentionally used in prod-
 5 ucts, mining, and manufacturing
 6 can be reduced through substi-
 7 tution of mercury-free alter-
 8 natives that are safer, available,
 9 and affordable; and

10 “(cc) essential mercury
 11 needs can be met through use of
 12 stockpiles in existence on the
 13 date of enactment of this section
 14 rather than through use of virgin
 15 mercury.

16 “(ii) CONSULTATION.—In carrying
 17 out this subparagraph, the Task Force
 18 shall consult with States, industries, and
 19 health, environmental, and consumer orga-
 20 nizations.

21 “(G) HEARINGS.—The Task Force may
 22 hold such hearings, sit and act at such times
 23 and places, take such testimony, and receive
 24 such evidence as the Task Force considers ad-
 25 visable to carry out this section.

1 “(H) INFORMATION FROM FEDERAL AGEN-
2 CIES.—

3 “(i) IN GENERAL.—The Task Force
4 may secure directly from a Federal agency
5 such information as the Task Force con-
6 siders necessary to carry out this section.

7 “(ii) PROVISION OF INFORMATION.—
8 On request of the Chairperson of the Task
9 Force, the head of the agency shall provide
10 the information to the Task Force.

11 “(I) POSTAL SERVICES.—The Task Force
12 may use the United States mails in the same
13 manner and under the same conditions as other
14 agencies of the Federal Government.

15 “(J) GIFTS.—The Task Force may accept,
16 use, and dispose of gifts or donations of serv-
17 ices or property.

18 “(K) COMPENSATION OF MEMBERS; TRAV-
19 EL EXPENSES.—

20 “(i) FEDERAL EMPLOYEES.—A mem-
21 ber of the Task Force who is an officer or
22 employee of the Federal Government shall
23 serve without compensation in addition to
24 the compensation received for the services

1 of the member as an officer or employee of
 2 the Federal Government.

3 “(ii) TRAVEL EXPENSES.—A member
 4 of the Task Force shall be allowed travel
 5 expenses, including per diem in lieu of sub-
 6 sistence, at rates authorized for an em-
 7 ployee of an agency under subchapter I of
 8 chapter 57 of title 5, United States Code,
 9 while away from the home or regular place
 10 of business of the member in the perform-
 11 ance of the duties of the Task Force.

12 “(L) STAFF AND FUNDING.—

13 “(i) DETERMINATION.—The Chair-
 14 person of the Task Force shall determine
 15 the level of staff and funding that are ade-
 16 quate to carry out the activities of the
 17 Task Force.

18 “(ii) SOURCE.—The staff and funding
 19 shall be provided by and drawn equally
 20 from the resources of—

21 “(I) the Department of Energy;

22 “(II) the Department of Defense;

23 and

24 “(III) the Environmental Protec-
 25 tion Agency.

1 “(iii) APPOINTMENT OF STAFF.—The
 2 Chairperson may, without regard to the
 3 civil service laws (including regulations),
 4 appoint and terminate such staff as are
 5 necessary to enable the Task Force to per-
 6 form the duties of the Task Force.

7 “(iv) COMPENSATION.—

8 “(I) IN GENERAL.—Except as
 9 provided in subclause (II), the Chair-
 10 person may fix the compensation of
 11 the staff of the Task Force that are
 12 not officers or employees of the Fed-
 13 eral Government without regard to
 14 the provisions of chapter 51 and sub-
 15 chapter III of chapter 53 of title 5,
 16 United States Code, relating to classi-
 17 fication of positions and General
 18 Schedule pay rates.

19 “(II) MAXIMUM RATE OF PAY.—

20 The rate of pay for the staff shall not
 21 exceed the rate payable for level V of
 22 the Executive Schedule under section
 23 5316 of title 5, United States Code.

24 “(v) DETAIL OF FEDERAL GOVERN-
 25 MENT EMPLOYEES.—

1 “(I) IN GENERAL.—An employee
 2 of the Federal Government may be
 3 detailed to the Task Force without re-
 4 imbursement.

5 “(II) CIVIL SERVICE STATUS.—
 6 The detail of the employee shall be
 7 without interruption or loss of civil
 8 service status or privilege.

9 “(vi) PROCUREMENT OF TEMPORARY
 10 AND INTERMITTENT SERVICES.—The
 11 Chairperson of the Task Force may pro-
 12 cure for the purposes of the Task Force
 13 temporary and intermittent services in ac-
 14 cordance with section 3109(b) of title 5,
 15 United States Code, at rates for individ-
 16 uals that do not exceed the daily equivalent
 17 of the annual rate of basic pay prescribed
 18 for level V of the Executive Schedule under
 19 section 5316 of that title.

20 “(M) TERMINATION OF TASK FORCE.—
 21 The Task Force shall terminate on the date
 22 that is 90 days after the date on which the
 23 Task Force submits the report required under
 24 subparagraph (F)(i).

1 “(N) NO EFFECT ON OTHER LAW.—Noth-
 2 ing in this paragraph affects the regulation of
 3 mercury under—

4 “(i) any other provision of this sub-
 5 title; or

6 “(ii) any other law.

7 “(2) RESPONSIBILITY OF THE ADMINISTRATOR
 8 FOR SAFE MANAGEMENT AND STORAGE OF MER-
 9 CURY.—In consultation with the Task Force, the
 10 Administrator shall—

11 “(A)(i) purchase or otherwise take title to
 12 the mercury collected under the thermometer
 13 exchange program established under subsection
 14 (b), or collected from any other source;

15 “(ii) manage (or designate a contractor to
 16 manage) the mercury collected in a manner
 17 that ensures that the mercury collected is not
 18 released into the environment;

19 “(iii) ensure, to the maximum extent prac-
 20 ticable, that the mercury collected under the
 21 thermometer exchange program established
 22 under subsection (b), or an equivalent quantity
 23 of mercury, is not reintroduced into commerce;
 24 and

1 “(iv) provide to the Task Force, for inclu-
 2 sion in the report of the Task Force under
 3 paragraph (1)(F)(i), an analysis of, and rec-
 4 ommendations relating to, the mercury collec-
 5 tion and management activities carried out
 6 under this section; and

7 “(B)(i) identify potential mercury stabiliza-
 8 tion technologies and long-term storage meas-
 9 ures that ensure minimal release of mercury
 10 into the environment; and

11 “(ii) conduct such research, development,
 12 and demonstration of the technologies and
 13 measures as the Administrator determines to be
 14 appropriate.

15 “(d) RELATION TO OTHER LAW.—Nothing in this
 16 section—

17 “(1) precludes any State from imposing any ad-
 18 ditional requirement; or

19 “(2) diminishes any obligation, liability, or
 20 other responsibility under other Federal law.

21 “(e) AUTHORIZATION OF APPROPRIATIONS.—

22 “(1) IN GENERAL.—There is authorized to be
 23 appropriated to carry out this section (other than
 24 subsection (c)(2)(A)) \$20,000,000, of which—

1 “(A) not more than 2.5 percent shall be
 2 used to carry out the activities of the Task
 3 Force; and

4 “(B) not more than 2.5 percent shall be
 5 used to carry out subsection (c)(2)(B).

6 “(2) SAFE MANAGEMENT AND STORAGE.—In
 7 addition to the amount authorized to be appro-
 8 priated under paragraph (1), there is authorized to
 9 be appropriated to carry out subsection (c)(2)(A)
 10 \$1,000,000 for each fiscal year.”.

11 (b) CONFORMING AMENDMENT.—Section 1001 of the
 12 Solid Waste Disposal Act (42 U.S.C. prec. 6901) is
 13 amended by adding at the end of the items relating to
 14 subtitle C the following:

“Sec. 3024. Mercury.”.

Passed the Senate September 5, 2002.

Attest:

Secretary.

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